



**Los Alamos National Laboratory**

**REQUESTER'S GUIDE TO EXPORTING/IMPORTING**

**Published by: the BUS-6 Customs Office, (505) 665-2194  
and the Export Working Group**

**Revised March 1998**

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**Los Alamos**

NATIONAL LABORATORY

**memorandum***Office of the Director*

To/MS: All Employees

From/MS: John C. Browne, A100

Phone/Fax: 7-5101/7-2997

Symbol: DIR

Date: January 8, 1998

**LABORATORY EXPORT POLICY**

The Laboratory is firmly committed to strict adherence to all U.S. export control laws and regulations. This requires that under no circumstances will the export of technical data, software, or commodities take place contrary to U.S. export control laws and regulations.

To "export" means to transfer commodities, software/computer code and/or technical data from the United States via any of the following: mail, shipment, hand-carry, telephone, electronic mail, facsimile, over the Web, and any other electronic means. Transfer also occurs at the time of release of technical data into the public domain in the form of public speeches, published articles, lectures, marketing brochures, etc. The release of export-controlled information to a foreign visitor in the United States is considered an export.

The following organizations are responsible for the areas described below and possess technically and administratively qualified personnel to assist all employees in assuring compliance:

**Contact:**

BUS-4, 667-4166  
BUS-6, 665-2194  
FSS-15, 665-1572  
FSS-16, 667-5011

**Questions Regarding:**

Procedures for mail to foreign countries  
Exporting commodities and software  
Procedures for foreign visitors  
Exporting technical data

Procedures for exports can be found on the Web at <http://bus.lanl.gov/bus6/eximbuide/guide.htm>

Administrative, civil and criminal penalties exist for violations of export control laws and may be imposed against the Laboratory and/or its individual employees. Due to the serious consequences of failure to comply with U.S. export control laws and regulations, I cannot emphasize enough the importance that every employee be in full compliance.

JCB:dl

## Introduction

### The Guide

This guide is provided by the Property Management Group's (BUS-6) Customs Office and the Export Working Group to furnish information and assist you with the preparation of documentation and materials for export from, or import to, the Laboratory. Members of the Export Working Group include those groups with export control responsibilities (see Exhibit E). The Guide contains explanations of Laboratory export/import policies and procedures.

### Background

The export control system of the United States is very complex. The legal basis is federal statutes and implementing agency regulations, Executive Orders of the President, and U.S. treaty obligations. Enforcement is primarily by the Department of Commerce and the U.S. Customs Service, Department of the Treasury.

It should be noted that most export-controlled items are controlled not just by our government but by many other countries. The same controls that apply to Los Alamos usually apply to our colleagues in Germany, Japan, and the United Kingdom.

Los Alamos National Laboratory has played and continues to play a leading role in the development of nuclear non-proliferation export controls. The Laboratory advises the government on what should be controlled or decontrolled; assists in international negotiations to achieve effective uniform controls; and provides technical advice to the Department of Energy on specific licensing cases.

The Department of Commerce lists the reasons for export control as:

1. anti-terrorism,
2. chemical and biological weapons,
3. crime control,
4. high performance computers,
5. missile technology,
6. national security,
7. nuclear nonproliferation,
8. regional stability,
9. short supply, and
10. United Nations sanctions.

## Introduction

### Distribution of Export & Import Responsibilities

The Customs Office, BUS-6, 665-2194, is responsible for obtaining licenses, commodity and software classifications, designating license exceptions, preparing shipping documents, approving all exports of commodities and software from the Laboratory, and maintaining central records of commodity and software exports. The Customs Office also prepares all entry documentation for clearing imports to the Laboratory.

The Classification Office, FSS-16, 667-5011, is responsible for decisions on technical data to be exported and assisting requesters in the use of applicable license exceptions and their conditions.

BUS-4, 667-4166, is responsible for monitoring outgoing mail to foreign countries and ensuring mail to embargoed countries has Division-level approval.

FSS-15, 667-1572, is responsible for foreign visitors. The release of export-controlled information to a foreign visitor **in the United States** is an export.

### Latest Concerns

Along with the threat of nuclear proliferation, Under Secretary William A. Reinsch outlines other concerns in his keynote address to the Practicing Law Institute.

"Technology has always been difficult to contain, and now the internet, the modem, and the availability of high performance computers make its diffusion even easier. It also makes the consequences of that diffusion more serious. That means it is time for some new thinking about export controls and the role they play."

"We also face the complexities of rogue states, like Iran, Iraq, Libya, and North Korea, still determined to acquire weapons of mass destruction and still destabilizing their regions through their support of terrorism. They have branched out from conventional military buildups and efforts to acquire a nuclear capability to chemical and biological weapons and the missile technology to deliver them. The widespread availability of some of those ingredients and technologies -- which have common civilian uses -- makes the threat more dangerous and our export control task more difficult."

- Under Secretary William A. Reinsch  
Department of Commerce

## Introduction

### Customs

Most of the countries that Laboratory requesters travel to have import and export regulations. It is important to keep this in mind when traveling through Customs with Laboratory materials and equipment.

### Governing Regulations

Department of Commerce (15 CFR 730-799)  
Department of State (22 CFR 120-130)  
Foreign Assets Treasury Controls (31 CFR 500-590)  
Alcohol, Tobacco and Firearms (27 CFR 47, 55, 178, 179)  
Nuclear Regulatory Commission (10 CFR 110)  
Department of Energy (10 CFR 810)  
Drug Enforcement Agency (21 CFR 1300-1399)  
U.S. Customs Service (19 CFR 1-199)  
U.S. International Trade Commission (19 CFR 200-299)  
International Trade Administration (19 CFR 300-399)  
Bureau of Census (15 CFR 30-199)

### Violations

Failure to comply with U.S. export control laws can result in criminal sanctions, including imprisonment, administrative sanctions, and civil penalties. Please see Exhibit F.

Violators of customs laws can incur fines, penalties and seizure and forfeiture of imported merchandise.

### Appendix

The appendix contains information on :

- Licenses;
- Documentation Requirements;
- Nuclear-related Commodities, End-Uses, End-Users and Activities;
- Defense Articles and Services, and Missile and Chemical/Biological Weapons End-Uses/Users; and
- End-use/End-User Guidance and Red Flags.

### Index

This guide also contains an alphabetical index to assist you in finding items contained herein.

### Training

On-line training is available for the following subjects:

- Exporting Commodities,
- Exporting Software,
- Exporting Information,
- Foreign Visits & Assignments,
- Importing,
- High Risk Property

Anyone involved in any of the above subjects should take this training. You will receive EDS credit for taking any of these courses. See Training on the Laboratory web page, or contact BUS-6 or FSS-16 for the address.

## Exporting Commodities

### Export

To "export" commodities means to transfer commodities from the United States via any of the following: mail, shipment, drop shipment, or hand-carry.

### Circumvention

Any attempt by an employee to circumvent the Laboratory policy (see page 3) for compliance with export control laws and regulations may lead to disciplinary action, up to and including termination. In addition, the Laboratory may decline to provide assistance if an employee encounters legal difficulties as a result of willful noncompliance with the policy.

### Lessons Learned

Soon after the Customs Office was established, a Laboratory staff member was detained by the police in the United Kingdom. He was not allowed to take his computer into the country because the proper arrangements had not been made. The computer was shipped back to the Laboratory.

An example of circumvention occurred when a group insisted on making its own arrangements for export of equipment going to a time-critical experiment in Canada. Although the equipment reached the border, Canadian Customs would not let the equipment continue until a bond had been set up to guarantee that the equipment would be exported back to the United States upon completion of the experiment..

### Customs Office

The Customs Office in group BUS-6 has the expertise to make exporting as easy as possible for Laboratory requesters. Please contact the Customs Office 665-2194, for all your exporting needs.

### Required Form

To ship commodities (material or equipment) (on loan, joint use, change of station, or permanently) to a foreign country, you must prepare a Shipping Manifest (SM) or Shippint Request. The SM is available from Stock, ST 2909. The Shipping Request is available on-line.

### Property Concerns

The appropriate property transaction must be taken care of before Laboratory property is exported. Please see Controls on Property Intended for Export on page 9.

## Exporting Commodities

### Hand-Carried Items

Hand-carried items should be treated as if they were being shipped. A Property Removal Form (PRF) should be used and should state that the items (including non-barcoded items) are to be hand-carried. The PRF should be used when the items are leaving and returning with an employee. Use the SM when hand-carrying items that will not be returned to the Laboratory. The hand-carried items must be licensed and shipping documents must be prepared before the items are taken out of the country. Every country's customs regulations are different and problems may be encountered when employees attempt to hand-carry material and equipment overseas.

### Registration

Duty is due each time a foreign manufactured item enters the U.S., unless the item has been registered with U.S. Customs at the time of export. If foreign manufactured items (or items that are not easily identified as U.S.-made) are hand-carried back with the traveler or are to be shipped back to the U.S., the Customs Office will make arrangements for the registration of the items at the time of export so that no duties will have to be paid upon return. If items made in the United States are not clearly marked as such, it is a good idea to register those items as well at time of export.

### Temporary Exports/Special Arrangements

Many commodities exported from the Laboratory are returned to the Laboratory. If items are being exported temporarily, the foreign destination's laws may require special arrangements. For example, a Certificate of Origin or Manufacturer's Affidavit may be required, or a bond may be requested to guarantee the items will be eventually exported.

### Licensing

The Customs Office, located at 200 DP Road, 665-2194, is responsible for obtaining the proper license (see page 35 of the Appendix) or designating the appropriate license exception or symbol for all commodities before export. It is best to give the Customs Office as much notice as possible to ensure that any special documentation required is in order.



## Controls for Property Intended for Export

### Property

Laboratory property is government property and is to be used only in the pursuit of official business. This section describes the requirements for different types of property transactions that must be addressed before an export takes place. Property may be exported following the procedures listed below:

### Government Furnished Property (GFP)

If you wish to export government-owned property provided to or acquired under a LANL contract:

1. Check the "Government Furnished Property" box on the SM.
2. Place the subcontract number in the block marked "Laboratory's Reference #."
3. Check the block marked "Export", and state the Country of Origin (for example if the item was marked "Made in Japan, the country of origin would be Japan).

The person authorizing the shipment, the Property Administrator, and the Contract Administrator must sign the Shipping Manifest.

### Joint Use (JU)

If a requester is exporting property that:

- is being used for a Laboratory research project at a foreign location,
- is to be set up, used, or dismantled by someone other than a LANL employee, or
- does not meet the definition of government furnished property, loan, or excess (see the Property Management Manual at <http://bus.lanl.gov/bus6/pmm/pmm.htm>):

1. Check the "other" box on the Shipping Manifest and state "joint use," and state the name and telephone number of a contact and the address of the foreign location.
2. Check the block marked "Export," and state the Country of Origin (for example if the item is marked "Made in Japan" the country of origin would be Japan).
3. Submit the SM and a Statement of Work signed by the responsible parties (see LANL's Property Management Manual) to the BUS-6 Property Operations Team for approval and generating a Joint Use Agreement.

Please call the Property Operations Team at 667-7394 for assistance. The person authorizing the shipment and the Property Administrator must sign the SM.

## Controls for Property Intended for Export

### Loans

Loan requests by foreign governments or organizations must be submitted to the DOE/LAAO Property Management Office for approval by DOE HQ in accordance with DOE Property Management Regulation (PMR) 109-1.5104(b). A DOE loan agreement signed by the responsible parties must be prepared by the BUS-6 Property Operations Team.

A cover memorandum shall (1) specify the purpose of the loan, (2) identify the individual from the cognizant DOE HQ Program Office responsible for reviewing this request, and (3) state the type of export license required (call 665-2194 for assistance) to ship the property.

After DOE has approved the loan:

1. Check the box marked "loan" on the SM.
2. Check the block marked "Export" and state the Country of Origin (for example, if the item was marked "Made in Japan" the country of origin would be Japan).
3. Submit the SM to the BUS-6 Property Operations Team for approval and assignment of a Loan Agreement number.

The group leader of the person authorizing the shipment and Property Administrator signatures are required on the SM when a loan to a foreign consignee is requested.

Please contact the Property Operations Team, 667-7394, for further information regarding loaned property.

### Trade-in or Replacement

A. Trade-in or Replacement - Property can be provided for trade-in or replacement purposes.

1. Check the "other" box on the SM and state "Trade-in or Replacement."
2. Reference the Purchase Order number in the block marked "Laboratory's Reference #."
3. Check the block marked "Export", and state the Country or Origin (for example if the item was marked "Made in Japan" the country of origin would be Japan).

The person authorizing the shipment, the Contract Administrator/Buyer and Property Administrator must sign the Shipping Manifest.

**Deliverables  
(Reimbursable/Bar-coded  
Equipment)**

B. Reimbursable Funded Equipment/Bar-coded Equipment - if provisions have been specified in a Laboratory Proposal, Memorandum of Understanding (MOU), Interagency Agreement (IA) or Funds-In-Agreement (FIA), for title of equipment to be held by a funding agency, the equipment may be sent to sponsor.

1. Check the "other" box on the Shipping Manifest and state "Equipment to Sponsor."
2. Check the block marked "Export", and state the Country of Origin (for example if the item was marked "Made in Japan," the country of origin would be Japan).

The person authorizing the shipment and the Property Administrator must sign the Shipping Manifest.

**Non-bar-coded Property**

C. Non-bar-coded property - If you wish to export commodities that are non-bar-coded and will be absorbed, destroyed or expended during research and development performed under contract to the Laboratory:

1. Check the "other" box on the Shipping Manifest (SM) and state "Expendable Items."
2. State the project for which the consumable is being exported in the block marked "Reason for Shipment."
3. Check the block marked "Export", and state the Country of Origin (for example if the item was marked "Made in Japan," the country origin would be Japan.)

Obtain the signature of the person authorizing the shipment of the commodities. Submit the SM to the Customs Office for shipment.

**Export Controls on Property Transferred or Sold in the U.S.****High-Risk Screening & Export Controls**

BUS-6 performs "high-risk" screenings for nuclear proliferation and weapons concerns on all requests for transfers of property from DOE's ownership and on all excess requests. Export control responsibilities are noted to transferees of any property previously owned by DOE.

**Releasing Laboratory  
Equipment or Materials to the  
Public**

Johnson Controls North (JCN) notes export control responsibilities on its bills of sale and on auction receipts used by its auctioneer. Export control responsibilities pass to the new owner of those items permanently transferred or sold.

**Property Management Manual**

For more information regarding Laboratory property, please see <http://bus.lanl.gov/bus6/pmm/pmm.htm>

## Foreign Travel

### Taking Items that will not Return to the Laboratory

When an employee goes on travel and takes Laboratory equipment out of the U.S. that will not return with the traveler:

1. Check the "other" box on the Shipping Manifest and state the appropriate property control (GFP, JU, Loan, etc.). Provide the address of the foreign location being visited and a contact name and telephone number at that location(s).
2. Check the block marked "Export" and state the country of Origin (for example if the item was marked "Made in Japan," the country of origin would be Japan).

Property disposition must be approved by the BUS-6 Property Operations Team before you leave on foreign travel.

The person authorizing the shipment and the Property Administrator must sign the SM.

Export requests must be provided to the BUS-6 Customs Office well in advance of the departure date.

### Items Returning to the Laboratory

If the property will return with the traveler, a Property Removal Form (PRF) should be used. The PRF can be made valid for one year if the traveler frequently takes the same equipment (i.e., a laptop computer) to pre-approved locations.

Export requests must be provided to the BUS-6 Customs Office well in advance of the departure date.

## Declaration

When returning from foreign travel it is important that you declare all articles acquired abroad and in your possession at the time of your return to the U.S. This includes:

- Articles that you purchased abroad,
- Gifts presented to you while abroad,
- Repairs or alterations made to any articles taken abroad and returned,
- Items you have been requested to bring home for another person.

All articles brought into the United States by any individual require declaration to U.S. Customs at the port of first arrival. Never pack personal items with scientific equipment you intend to ship or hand-carry back into the U.S.

## Exporting Software

### Export

To export software means to make software source code (or executable code if the software contains encryption) available to a foreign national either in or outside of the United States by any means.

A current investigation by the Enforcement Office of the Department of Commerce examining Laboratory software export irregularities has resulted in improved Laboratory policies and procedures to ensure that all future exports are in accord with Commerce regulations.

### LA-CC Number

No Laboratory-developed software may be distributed without an LA-CC number.  
(<http://www.lanl.gov/Internal/divisions/fss/fss-16/htmls/lacc.html>). To obtain a LA-CC number, submit the Software Release Form (see Exhibit K) to FSS-16.

### Public Dissemination

Laboratory-developed software which is to be publicly disseminated, as determined by line management and indicated on the Software Release Form, may be exported to any destination after assignment of the LA-CC number. No software that contains encryption or provision for adding encryption can be disseminated without the approval of the BUS-6 Customs Office, 665-2194. (Note that exports to embargoed countries require division-level approval. See page 16.)

### Restricted Software

Restricted software is any Laboratory-developed software which is **not** to be publicly disseminated. For restricted software, FSS-16 will coordinate with the LA-CC requester and the BUS-6 Customs Office to ensure that an Export Control Commodity Number (ECCN), which is needed to determine the licensing requirements for export of the software, is requested from the Department of Commerce before the LA-CC number is issued.

After an LA-CC number has been obtained, each export of restricted software must be approved by the BUS-6 Customs Office.

### Required Form

A Software Export Approval Form (see Exhibit J) must be submitted to and approved by the BUS-6 Customs Office before each export of restricted software.

### Commercial Software

Commercially available software is controlled by the Department of Commerce and may require a license depending on where you are sending it. Some off-the-shelf software (like Windows NT) contains encryption and an export license is required to certain destinations. Contact the BUS-6 Customs Office for any export of commercial software.

## **Exporting Software**

### **Hand-Carried Software**

Software being hand-carried to a foreign destination must be approved by the BUS-6 Customs Office just as it would if it were being exported by any other method. List any software you are taking on laptops or other computers on the Shipping Manifest/Request.

### **Software Distributed Electronically**

Laboratory-developed software that is not publicly available and is to be distributed over the Web or via e-mail must be approved by the BUS-6 Customs Office before the distribution takes place.

## Exporting Information

### Technology

Technology is specific information necessary for the development, production, or use of a product. It may take the form of "technical assistance" or "technical data."

### Technical Assistance

Technical assistance is any method of transmitting technical information other than simply providing written material. Technical assistance may take forms such as instruction, skills training, working knowledge, or consulting services. As an example, a Laboratory employee assisting in setting up radiation monitoring equipment at a Russian nuclear facility is providing technical assistance.

### Technical Data

Any Laboratory information which is scientific or engineering in nature should be considered technical data. Examples would be technical reports, calculations, experimental results, etc. All Laboratory software is technical data.

### Exports

Any communication of technology (technical data or technical assistance) to a foreign national is an export, whether it takes place in the U.S. or abroad. Technical data that is provided to a foreign national verbally, by mail, telephone or facsimile, or through computer networking is an export. Observation of equipment or process operation by a foreign national may comprise an export of technical data if significant details are revealed.

### License Symbol TSPA/License Exceptions

The symbol for exporting technical data that is publicly available is TSPA (Technical Data & Software Publicly Available), and there are two license exceptions which do not require a license from the Department of Commerce for data that is not available to the public. TSPA (used to be GTDA) authorizes an employee to export to all destinations those technical data that have been made available to the public in any form or that are intended for public release. This includes published books, reprints, all unclassified and non-sensitive Laboratory-released publications (e.g., LA-URs, LALPs, LA-series reports that are not marked as classified or having limited distribution), papers "approved for release" with intent to publish, and fundamental research not restricted by the government. Export requests not determined to be under TSPA or general correspondence must be referred to FSS-16 at 667-5011.

## Exporting Information

### Correspondence

The designation "correspondence" must be used when you mail non-technical or administrative information (e.g., hotel reservations, thank you notes, checks for registrations, visa documents). The "correspondence" designation cannot be used if any technical data are enclosed. If a mailing contains both technical data and correspondence, it is treated as technical data.

### Unclassified Controlled Nuclear Information (UCNI)

Any export of information determined to contain Unclassified Controlled Nuclear Information (UCNI) must be approved by the appropriate DOE Program Office. Call FSS-16 at 7-5011 for assistance.

### Embargoes

The U.S. Department of State, and the Treasury Department's Office of Foreign Assets Control administer United Nations Embargoes and other sanctions against certain countries. These countries include: Cuba, Iraq, Libya, North Korea, and Iran. Information which may be exported under "correspondence" or "TSPA" can be sent to these countries; although, in keeping with national policy, this should be done **only if there is an important Laboratory-related need for such communications; Division-level sign-off is required (see Exhibit G).**

### Assistance

For assistance with determination of the appropriate export designation for technical data, contact FSS-16 at 667-5011.

For assistance with procedures for mailing technical information abroad, contact BUS-4 at 667-4166.

For assistance in determining what information foreign visitors at the Laboratory are permitted to have, contact FSS-15 at 665-1572.

For detailed DOE guidelines on Export Control and Non-Proliferation, see [http://www.lanl.gov/fss/fss-16/pdfs/eci\\_gdl.pdf](http://www.lanl.gov/fss/fss-16/pdfs/eci_gdl.pdf)



## Imports

### Imports

All imported equipment and materials require clearance through U.S. Customs. Most also require the payment of duty. The Customs Office clears all imports for the Laboratory (including those from Canada and Mexico).

### LANL as Customs Broker

The Laboratory acts as its own broker for all imports whether purchased, borrowed, or returned. All shipments should carry the following notation:

"DO NOT CLEAR AT GATEWAY SHIP IN BOND TO:  
University of California  
Los Alamos National Laboratory  
SM-30, Bikini Atoll Road  
Los Alamos, New Mexico 87545  
Attn: BUS-6 Customs Office (505) 665-2194"

### Duty

Unless an import:

1. Is temporary (will remain at the Laboratory less than one year - although this can be extended),
2. Is duty-free under the Harmonized Tariff System,
3. Is duty-free under a special program,
4. Has duty-free status by grant from the U.S. Treasury and the Department of Commerce, or
5. Is a return of commodities previously exported from the Laboratory, by any means, that were registered with Customs at time of export,

the requesting group will have to pay duty and processing fees to get the imported commodities released from U.S. Customs, unless other arrangements have been made. The Laboratory Purchase Order number (if applicable) and contact's name and telephone number should appear on the invoice sent with the shipment. The Customs Office will call the Laboratory contact for information regarding classification, type of entry, etc., if this is not clear.

### Temporary Imports

If a commodity is:

1. being imported for testing, experimentation, etc.,
2. will be here less than one year, and
3. will not be altered in any way,

the Customs Office may be able to set up a Temporary Import Bond (TIB). One condition of a TIB is that the imported materials be returned or disposed of (under U.S. Customs' supervision) within one year from the date of importation. It is possible to get an extension if the Customs Office is notified well in advance of the expiration of the year's deadline.

## Imports

### Temporary Imports cont'd.

Some materials (e.g., chemicals) that will be consumed during an experiment and would otherwise be subject to duty may be brought in under a TIB. Customs must be notified that the commodity will be consumed before entry is made.

When you are ready to export or destroy ANY PART of a commodity imported under a TIB for ANY REASON, including repair/replacement, you must notify the Customs Office immediately and reference the TIB number on the SM.

### Request for Duty-Free Entry

If a scientific instrument or apparatus:

- is not being manufactured in the United States,
- is not a part of another instrument or apparatus,
- is used to further the cause of peace,
- is for purely scientific research, and
- will not be used commercially for five years,

the Customs Office can submit a request to the U.S. Treasury Department and the Department of Commerce for duty-free entry. If you are importing something that may fall under the above conditions, please call the Customs Office. This process can be quite time-consuming, so please give the Customs Office as much advance notice as possible.

### Declaration

All articles brought into the United States by any individual require declaration to U.S. Customs at the port of first arrival. Never pack personal items with scientific equipment you intend to ship or hand-carry back into the U.S.

### Lessons Learned

A contractor for another Laboratory tried to smuggle goods into the United States with his Laboratory equipment. Upon inspection, U.S. Customs found alcohol, furs, and other foreign goods that had not been declared. Because the contractor did not declare these items:

- that Laboratory's equipment was seized and was not released for several weeks;
- the party involved was asked to take leave without pay for a period of time;
- that Laboratory's imports were inspected more often than before the incident, which causes delays in receiving needed equipment; and
- that Laboratory faced potential fines for violation of import regulations.

### Customs Office

The Customs Office, 665-2194, can assist you with consumption entries, T.I.B.s, duty-free entries, special requests, etc. It is best to give the Customs Office notice as far in advance as possible in order to get your import released in an expeditious manner. Occasionally,

special documentation will have to be obtained from the country of export before your import can be released from U.S. Customs. The Customs Office is pleased to offer its services to you for all of your importing/exporting needs.

## Foreign Visitors

### Badge Requirement

All foreign nationals coming on to Laboratory property must be badged. Technical hosts should meet their visitors at the badge office for badging before going anywhere else on Laboratory property. A picture ID may be used to verify the identity of the foreign national to Badge Office personnel.

### Technical Hosts

Laboratory employees acting as technical hosts for foreign visitors working at the Laboratory are responsible for, and will be held accountable for, following Laboratory and Department of Energy guidance for foreign visits and assignments. A technical host must be a US citizen.

### Sensitive Information (including Export-Controlled Information)

Technical hosts must ensure that the foreign visitors they are responsible for do not have access to unclassified sensitive information, unless approved by DOE. Export-controlled technical data and software are sensitive (see pages 13-16). Questions about whether specific types of information are sensitive, and what precautions are appropriate, should be addressed to the FSS-15 counterintelligence team at 665-2448. See also the "DOE Guidelines on Export Control and Nonproliferation" ([http://www.lanl.gov/Internal/divisions/fss/fss-16/pdfs/eci\\_gdl.pdf](http://www.lanl.gov/Internal/divisions/fss/fss-16/pdfs/eci_gdl.pdf))

### Non-secure Areas/Non-Sensitive Subjects

Division Leaders and Group Leaders can approve foreign visits to non-secure areas to discuss non-sensitive subjects by using Laboratory Form 982 (<http://www.lanl.gov/fss/fss-15/htmls/restricted/pavc/forms.html>). The form should be submitted to the badge office prior to the visit in order to arrange for badging.

### Secured Areas or Sensitive/Unclassified Subjects Requires DOE Approval

FSS-15 requests six weeks notice to get approval from DOE for foreign visitors coming to secured areas or to discuss sensitive/unclassified subjects. As soon as you know a visitor will need access to these areas, contact FSS-15 at 665-1572 for assistance.

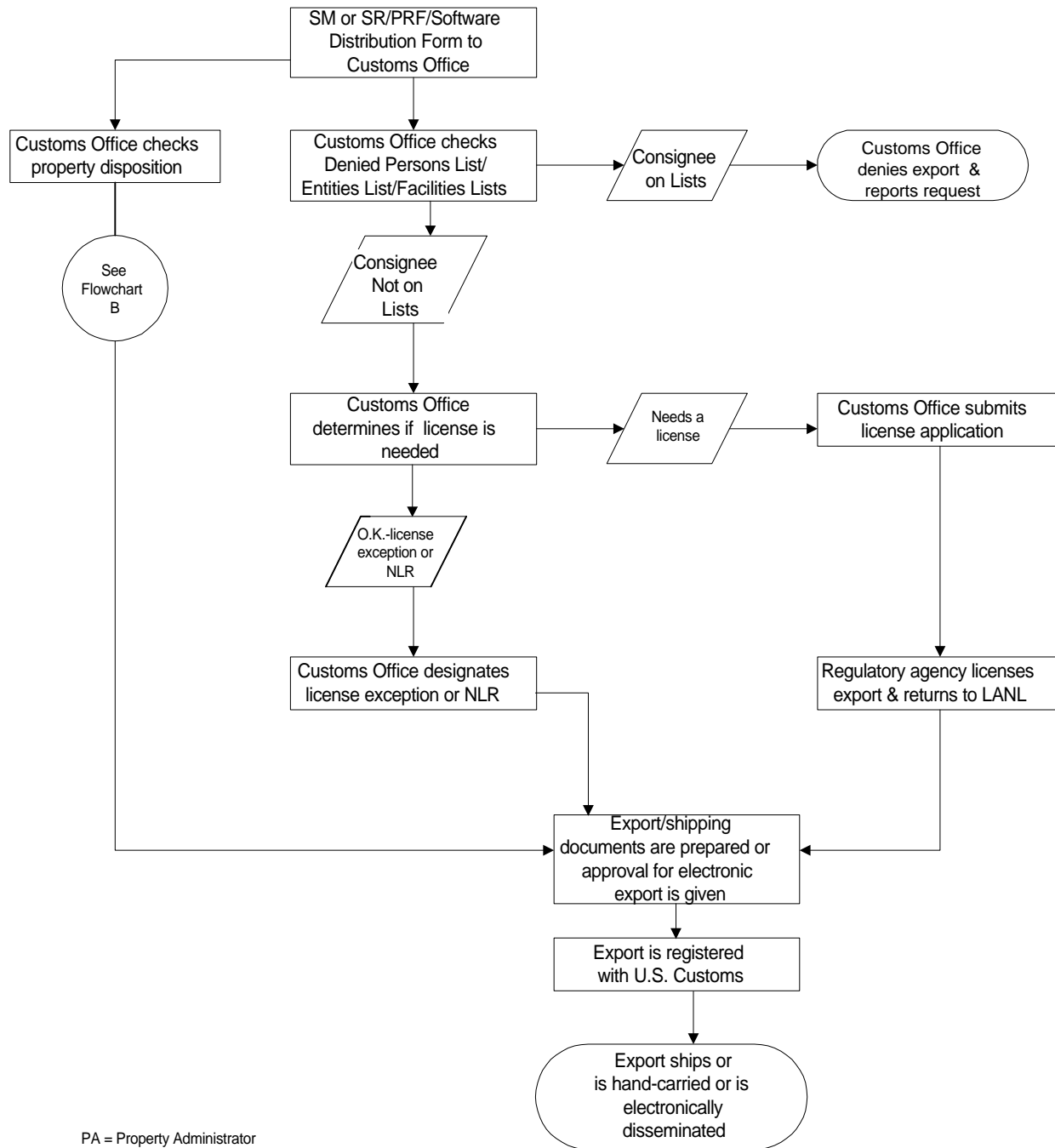
### Cleared Foreign Visitors

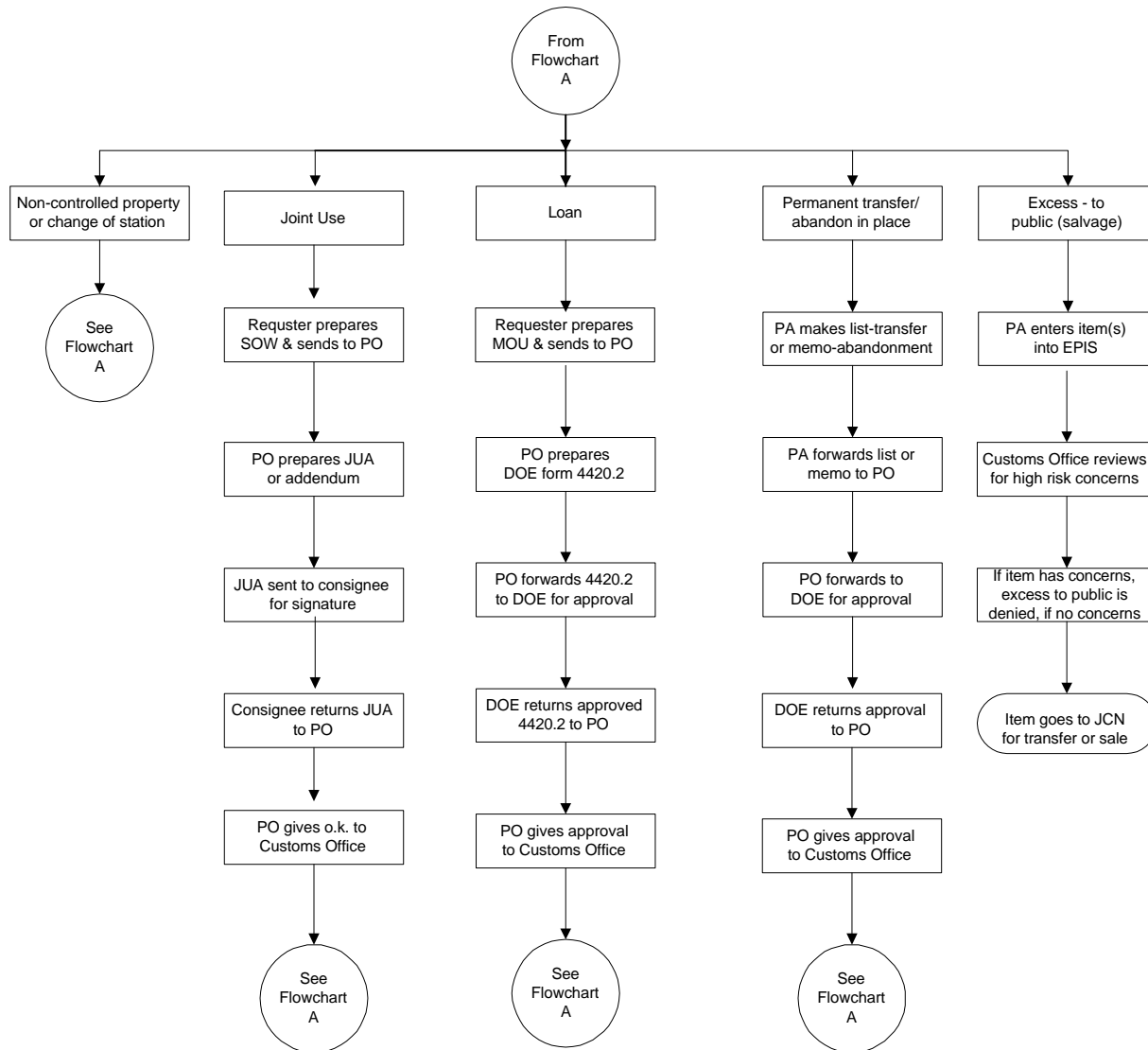
Official foreign visitors who hold access clearances recognized by the DOE are processed by Badge Office Personnel at 7-5587. The host must complete the Official Visitor Request Form 1745 (<http://www.lanl.gov/fss/fss-15/htmls/restricted/pavc/forms.html>)

### FSS-15

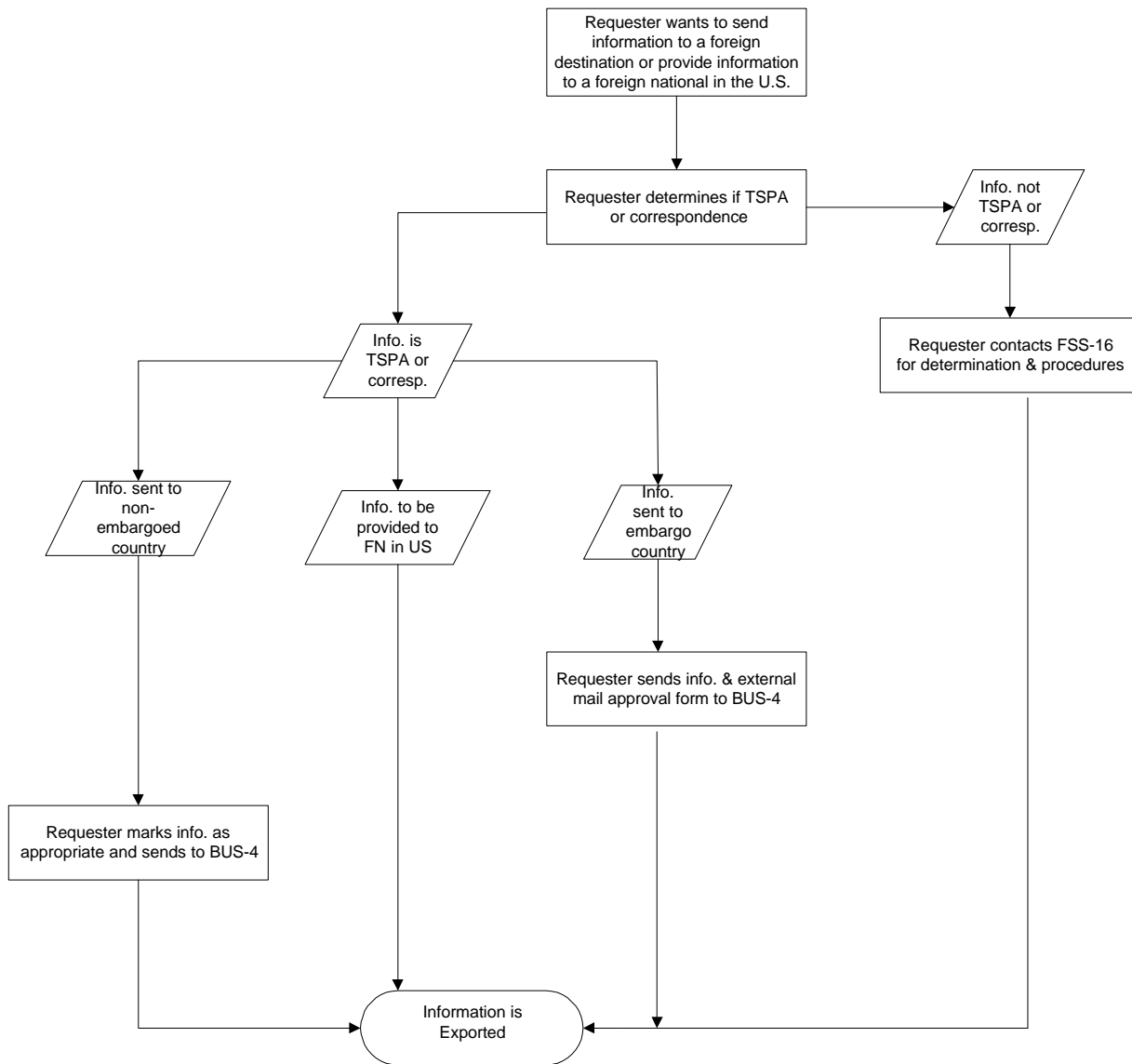
FSS-15 has accountability for the Foreign Visits and Assignments Program at the Laboratory. Please call FSS-15, 665-1572, for any questions you may have regarding foreign visitors.

## FLOWCHART A EXPORTING COMMODITIES and SOFTWARE



**FLOWCHART B - PROPERTY CONTROLS**

PA = Property Administrator  
 JUA = Joint Use Agreement  
 DOE = Department of Energy  
 JCN = Johnson Controls North  
 MOU = Memorandum of Understanding  
 EPIS = Excess Property Information System  
 PO = Property Operations Team  
 SOW = Statement of Work

**FLOWCHART C - EXPORTING INFORMATION**

TSPA = technology/software publicly available  
corresp. = correspondence  
FN = Foreign National  
US = United States

Note: Information to be exported to an embargoed country requires Division-level signature

**IMPORTING/EXPORTING REQUIREMENTS MATRIX**

<b>IMPORTING/EXPORTING - WHAT IS REQUIRED TO:</b>	Shipping Manifest- (SI 2909) or SR	Export Designation on Envelope	Interoffice Routing Slip & Division Signature	Joint Use Agreement-	Loan Agreement & Group Leader Signature	MOU, FIA, DOE- Approved Statement- of Work, Etc.*	Purchase Order No.- & Buyer Signature	Purchase Order No.- & Classification Info.	Registration of Foreign- Made Items	Cost & Program Codes- Group, Requester Z# & Classification Info.	Property Administrator Signature/Approval	DOE Approval-	Property Removal Form- for Travel	High Risk Review-
Mail Technical Data to Foreign Country		R**												
Mail Technical Data to Embargoed Country		R**	R**											
Export Commodity Temporarily - LANL's Use	R								C		R		R	
Export Commodity Temporarily - Foreign Entity Use	R			P		R			C		R			
Export Commodity Permanently	R					R					R	P		C
Add Items to Joint Use Agreement	R			P		R			C		R			
Loan Commodity to Foreign Entity	R				P	R			C		R	P		
Export for Repair or Replacement	R						R		C		R			
Excess Export-Controlled Equipment											R			C
Abandon Items in Place	R										R	P		C
Import Items under a Purchase Order								R						
Import Items without a Purchase Order										R				

C = Customs Office Prepares

FIA = Funds-In-Agreement

MOU = Memorandum of Understanding

SR = Shipping Request

P = Property Operations Team Obtains or Prepares

R = Requester provides to Customs Office through Property Administrator

R\*\* = Requester provides to BUS-4 (Note: Form numbers may change for mailing technical data)

## EXHIBIT A DEFINITIONS

<b>Commodity</b>	Material and equipment, i.e., computers, biological cells, tools, etc.
<b>Consignee</b>	Person to whom commodities/technology is being shipped. Can be an agent holding material for another.
<b>Customs Broker</b>	Person who clears imports through U.S. Customs from other countries. Customs Brokers are also used in other countries to bring in shipments.
<b>Customs Office</b>	The Laboratory's Customs Office located in BUS-6, 665-2194, MS P274 at 200 DP Road.
<b>ECCN</b>	The Export Control Classification Number identifies items on the Commerce Control List that are subject to the export licensing authority of the Bureau of Export Administration.
<b>End-Use</b>	A detailed description of how the ultimate consignee intends to use the commodities being exported.
<b>End-User</b>	Person (facility) ultimately using the commodities/technology being exported.
<b>EAR</b>	Export Administration Regulations (15 CFR 730-799)
<b>Export</b>	To "export" means to transfer commodities, software/computer code and/or technical data from the United States via any of the following: mail, shipment, <u>hand-carry</u> , telephone, face-to-face conversations, electronic mail, facsimile, over the Web, and any other electronic means. Transfer also occurs at the time of release of technical data into the public domain in the form of public speeches, published articles, lectures, marketing brochures, etc.
<b>License Exception</b>	Established by the U.S. Department of Commerce permitting export within the provisions prescribed in the Export Administration Regulations.
<b>Property Disposition</b>	The method to control, direct, or dispose of property.
<b>Requester</b>	Person who requests the export or import of commodities/technology
<b>Technical Assistance</b>	May take forms such as instruction, skills training, working knowledge, or consulting services.
<b>Technical Data</b>	May take the form of a blueprint, plan, diagram, model, formula, table, engineering design specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories.
<b>Technology</b>	Specific information necessary for the development, production, or use of a product. It may take the form of technical data or technical assistance.
<b>UCNI</b>	Section 148 of the Atomic Energy Act - In 1982 the Atomic Energy Act of 1954 was amended by adding Section 148, which allows for the prohibition of unauthorized dissemination of certain unclassified sensitive U.S. Government information which could reasonably be expected to have a significant adverse effect on public health and safety or the common defense and security by significantly increasing the likelihood of a) illegal production of nuclear weapons or b) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.
<b>U.S. Customs</b>	Means the United States Customs Service of the Department of Treasury



**EXHIBIT B**  
**ESTIMATED EXPORT PROCESSING TIME FRAMES**

<b><u>REQUEST</u></b>	<b><u>Estimated Time</u></b>
Export Commodity Classification Number Determination	15-30 days
Exports under a Department of Commerce License Exception	3-5 days
Exports Needing a Department of Commerce License	30-90 days
Exports of Nuclear Material or Equipment under a Nuclear Regulatory Commission General License requiring DOE approval	3-5 days
Exports of Nuclear Material or Equipment that fall under a Nuclear Regulatory Commission General License requiring DOE approval, and for which NAC Assigns a Contract Number	6-10 days
Exports of Nuclear Material or Equipment that requires a Nuclear Regulatory Commission License (DOE becomes the exporter of record)	30-60 days
Exports that require a License from the Department of State (DOE becomes the exporter of record)	30-90 days

Note: If your export contains hazardous material(s) processing time may take longer than stated above.

**EXHIBIT C****FORMS REFERRED TO IN THE GUIDE**

1. Shipping Manifest, Form 1311, Stock No. 1209 (BUS-4 owner)
2. Property Removal/Pass Request Form, Form 237-R, Stock No. 2619 (BUS-6 owner)
3. Request for Unclassified Visit or Assignment by a Foreign National, Form 982, Stock No. 5056 (FSS-15 owner)
4. Internal Routing Slip (provided by BUS-4, 667-4166) – See Exhibit G
5. Nuclear Controls Checklist (provided by BUS-6, 665-2194) – See Exhibit H
6. Missile Technology Checklist/Chemical & Biological Weapons Screen (provided by BUS-6, 665-2194) – See Exhibit I
7. Software Export Approval Form (provided by BUS-6, 665-2194) – See Exhibit J
8. Software Release Form (provided by FSS-16, 667-5011) – See Exhibit K

**EXHIBIT D****PREPARING MAILINGS/FACSIMILES/E-MAIL  
OF TECHNICAL DATA & CORRESPONDENCE  
TO BE SENT TO FOREIGN COUNTRIES****Mailings:**

The Laboratory requires that all mail addressed to a foreign destination bear the correct license designation or the correspondence designation for the contents of the envelope in the bottom left-hand corner of the outer envelope. Please follow the instructions below:

1. Use only Laboratory labels, if possible, and place the label to allow sufficient space for postage.
2. Use a plain envelope or an envelope with a blue and red border for mailings to foreign countries.
3. If a distribution list is attached to the mailing, you must include addresses with each name.
4. Write, stamp, or print the appropriate export designation (see pages 15, 16 & 30) or "correspondence" in the bottom left hand corner of the envelope.
5. Type or print a complete return address and include all necessary information for the addressee.
6. If the information to be sent out is in the "draft" stage, make sure the document is stamped "DRAFT."
7. If all criteria has been met, you may seal the envelope and forward it directly to BUS-4 at MS A190.
8. If the destination is an embargoed country (see Page 16), attach the Internal Office Routing Slip with Division approval (see Exhibit G), leave the envelope unsealed, and forward it to BUS-4, MS A190.

Note: Express mail requires a street address. Express mail cannot be delivered to a post office box. All express mail to Russia requires the recipients telephone number.

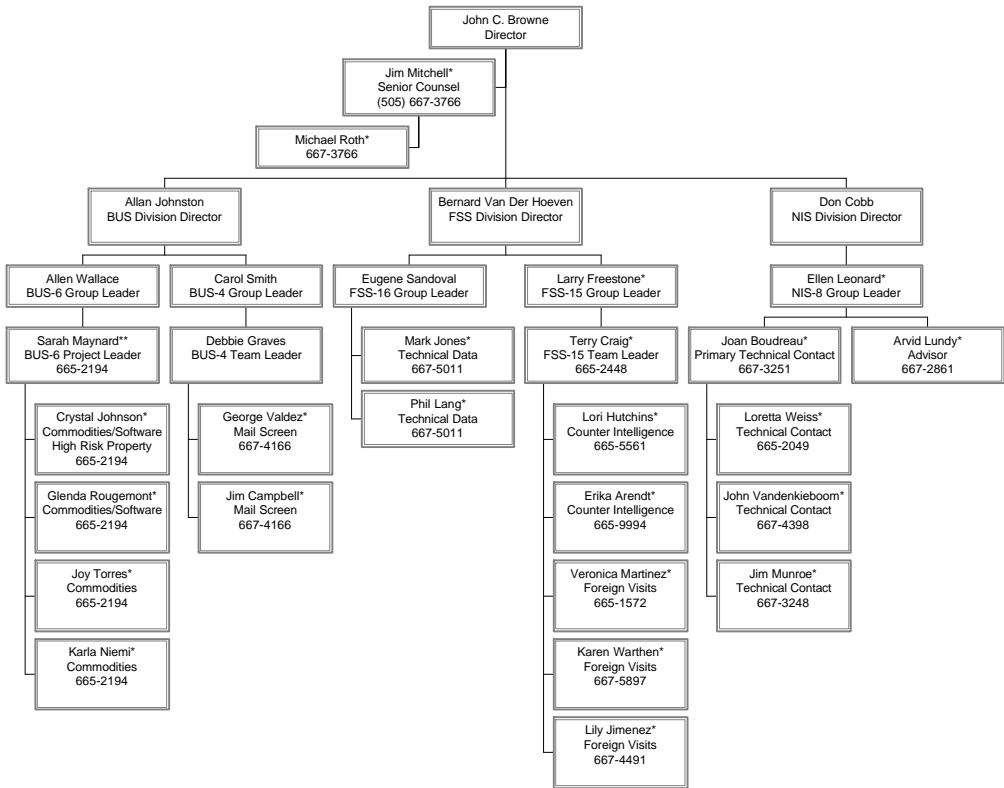
**Fax/E-mail:**

Type or print the appropriate export license designation or "correspondence" on your cover sheet or in the subject line of your electronic mail.

**All foreign mailings that do not have the proper addresses, return addresses, and export designations will be returned to the sender for corrections or destroyed if the sender is unknown.**

EXHIBIT E

Export Control Responsibilities



\*Export Working Group Member  
\*\*Export Working Group Chair

## EXHIBIT F

### PENALTIES FOR VIOLATIONS

#### Criminal Sanctions

**Laboratory:** Maximum sentence is \$1,000,000 if (a) there is a "willful" violation or (b) there is a failure by a licensee to disclose knowledge of a diversion to a communist country for military or intelligence purposes. Otherwise, the maximum for a "knowing" violation is the higher of \$50,000 or five times the value of the export(s).

**Individuals:** Maximum sentence is \$250,000 and imprisonment of up to 10 years if there (a) is a "willful" violation or (b) there is a failure by a licensee to disclose knowledge of a diversion to a communist country for military or intelligence purposes. Otherwise, the maximum for a "knowing" violation is \$50,000 and up to five years imprisonment.

**The Comprehensive Crime Control Act** gives a court the authority to increase the Export Administration Act's (EAA) criminal penalties substantially.

#### Civil Penalties

For violations of national security controls, the maximum civil penalty is \$100,000. For violations of other provisions of the act or regulations, the maximum penalty is \$10,000. Penalties are imposed through administrative proceedings within the Department of Commerce or by negotiated settlement.

#### Administrative Sanctions

**Denial Orders:** Denial Orders are administrative sanctions that have the effect of denying the sanctioned party any U.S. export privileges and any access to U.S.-origin goods and technology, from any source, for a specified period of time or indefinitely. The Customs Office is responsible for checking all consignees against the Denied Persons List currently in effect. It is a violation of the Export Administration Regulations for any person or firm anywhere in the world to supply any U.S.-origin goods or technology to, or finance or otherwise service or participate in, any transaction in which a denial order party may have an interest or from which that party may benefit contrary to the terms of the denial order.

**Seizure:** Commodities or technical data which have been, are being, or are intended to be exported or shipped from or taken out of the U.S. in violation of the Export Administration Act (EAA) or of any regulation, or license issued under the EAA are subject to being seized and detained, as are the vessels, vehicles, and aircraft carrying such commodities or technical data. Seized commodities or technical data are subject to forfeiture.

## EXHIBIT G

### INTEROFFICE ROUTING SLIP

### LOS ALAMOS NATIONAL LABORATORY

Void Mail Stop and initial before re-routing

Mail Stop	Name/Organization	Initials	Mail Stop	Name/Organization	Phone	Date
			A190	Export Control/Mail Services	7-4166	

*Use only for transmitting unclassified mail*

<b>Comments: Cannot mail, please mark with the appropriate Export Control Designation</b>
Laboratory policy requires that all laboratory mail addressed to a foreign destination MUST bear a marking called an Export Control Designation on the bottom left corner of the outer envelope. BUS-4 personal are not allowed to decide for the sender what type of information is being exported from the laboratory, it is the senders responsibility to decide and to mark the appropriate export control designation on all foreign mail.
<b>THE FOLLOWING DESIGNATIONS ARE USED HERE AT LANL.</b>
<b>CORRESPONDENCE</b> - Mailings with nontechnical data: Admin. Information, hotel reservations, thank-you notes, checks, etc..
<b>TSPA</b> - Mailings with technical data made publicly available: DOE-generated reports, LALPs, LA-URs, LA series reports, etc. Mailings that contain both a cover letter and reprint, reports, etc.
<b>TSU/TSR</b> - Mailings which cover data not exportable under TSPA, but still eligible for export under a general license subject to certain provisions, restrictions, exclusions, and exceptions include general technical data that are unrestricted (need FSS-16 approval).
<b>If TSPA or CORRESPONDENCE</b> (check each step): <input type="checkbox"/> Use a plain Laboratory envelope <input type="checkbox"/> Type mailing address on mailing label and affix to envelope. Need physical address for Express Mail <input type="checkbox"/> Write TSPA or CORRESPONDENCE on the lower left corner of the envelope. If Express please indicate above Export License. <input type="checkbox"/> Type your name, group, and mail stop as the return address (MAIL WITHOUT A RETURN ADDRESS WILL BE DESTROYED IF CANNOT CLEARLY IDENTIFY THE SENDER) <input type="checkbox"/> Seal envelope and forward to BUS-4, MS A190 <input type="checkbox"/> If sent to an <u>embargoed</u> country, division approval is required. ( <i>Proceed to Mail to Embargoed Countries</i> )
<b>MAIL TO EMBARGOED COUNTRIES</b> - transmission of any material containing technical data or correspondence to Iraq is not allowed until further notice. <b>MAIL TO ALL OTHER EMBARGOED COUNTRIES REQUIRES DIVISION LEVEL SIGNATURE. PLEASE OBTAIN THE SIGNATURE IN THE LAST BOX ON THIS FORM. FOR A LIST OF EMBARGOED COUNTRIES PLEASE SEE THE SECTION ON EXPORTING INFORMATION IN THE REQUESTER'S GUIDE TO EXPORTING/IMPORTING AT</b> <b><a href="http://bus.lanl.gov/bus6/eximguide/guide.htm">HTTP://BUS.LANL.GOV/BUS6/EXIMGUIDE/GUIDE.HTM</a>. PENALTIES FOR WILLFUL OR INADVERTENT FAILURE TO COMPLY WITH EXPORT REGULATIONS CAN BE SEVERE. LOS ALAMOS COULD BE DENIED EXPORT PRIVILEGES, WHICH WOULD SEVERELY HINDER OUR ABILITY TO ACCOMPLISH OUR MISSION AS SET FORTH BY THE DEPARTMENT OF ENERGY AND OTHER GOVERNMENT AGENCIES.</b>

Document Date:	Document Identification:
----------------	--------------------------

MAIL STOP	AUTHORIZING SIGNATURE	SIGNATURE	APPROVED		DATE SENT
			YES	NO	
	<b>Division Leader:</b>				

Form 1667 (01/98)

**EXHIBIT H****Facility** \_\_\_\_\_ **Checked by:** \_\_\_\_\_**Nuclear Controls Checklist**

Is the person/facility you are requesting export to involved in any of the following activities?

(1) **Nuclear explosive activities.**

Yes \_\_\_ No \_\_\_ Research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device or components or subsystems of such a device?

Yes \_\_\_ No \_\_\_ Are you a U.S. person involved in support activities where you know that the items will be used in the design, development, production, or use of nuclear explosive devices?

(2) **Unsafeguarded\* nuclear activities.**

Research on, or development, design, manufacture, construction, operation, or maintenance of:

Yes \_\_\_ No \_\_\_ a nuclear reactor

Yes \_\_\_ No \_\_\_ a critical facility

Yes \_\_\_ No \_\_\_ a facility for the fabrication of nuclear fuel

Yes \_\_\_ No \_\_\_ a facility for the conversion of nuclear material from one form to another

Yes \_\_\_ No \_\_\_ a storage installation

\*Unsafeguarded means that there is no obligation on the part of the country to accept International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation that contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export) or where any such obligation is not met.

(3) **Safeguarded and unsafeguarded nuclear activities.**

Nuclear fuel cycle activities, including research on a development, design, manufacture, construction, operation or maintenance of any of the following facilities:

Yes \_\_\_ No \_\_\_ Facilities for the chemical processing of irradiated special nuclear or source material

Yes \_\_\_ No \_\_\_ Facilities for the production of heavy water

Yes \_\_\_ No \_\_\_ Facilities for the separation of isotopes of source and special nuclear material

Yes \_\_\_ No \_\_\_ Facilities for the fabrication of nuclear reactor fuel containing plutonium

**EXHIBIT I**

**Facility** \_\_\_\_\_ **Checked by:** \_\_\_\_\_  
**Missile Technology Checklist**

Yes \_\_\_ No \_\_\_ Will the items requested for export be used in the design, development, production or use of missiles?

Yes \_\_\_ No \_\_\_ Is the end-user of the items involved in any activities involving the development of missiles?

Yes \_\_\_ No \_\_\_ Does the end-user have any direct or indirect assistance in the design, fabrication, operation or maintenance of rocket systems (including ballistic missile systems, space launch vehicles and sounding rockets) or in unmanned air vehicles systems (including cruise missile systems, target drones, remotely piloted vehicles and reconnaissance drones)?

**Chemical & Biological Weapons Screen**

Has the end-user:

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Provided evasive responses or been reluctant to provide an adequate explanation concerning the chemicals or biological agents to be produced with the equipment/materials requested for export or the end-use of the chemicals or biological agents produced with the equipment/materials?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Been reluctant to explain sufficiently the chemical raw materials or biological agents to be used with the equipment/materials requested for export?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Asked for quantities excessive for the production capability of the end-user?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Made requests for excessive safety/security devices/measures in light of the stated end-use, or the end-user's lack of familiarity with appropriate safety/security measures?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Made requests to complete a partly finished project and/or will not provide license authorizations obtained for the part of the project already completed?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Requested modification of a plant or equipment item in an existing or planned facility that changes production capability significantly and could make the facility more suitable for the manufacture of chemical weapons, chemical weapon precursors or biological agents and weapons?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Requested models of equipment or containers made or lined with nickel, hastelloy, monel other high nickel content or which are airtight beyond the normal requirements for the stated end-use, especially when less expensive models are appropriate for the end-use?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Requested excessive confidentiality concerning final destination or details on equipment, materials or technical data to be delivered?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Requested that the items be installed in: an area under unusual strict security control (such areas may include but are not limited to: an area close to a military-related facility, to which access is severely restricted; science and technology parks, or the facility is isolated from major population centers); or an atypical location in light of the character of the equipment (e.g. milk pasteurization equipment that is not being installed near a dairy or baby food distribution/packaging center)?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Refused personnel contractor or subcontractor access to parts of the plant other than those involved in the contract?

Yes \_\_\_ No \_\_\_ N/A \_\_\_ Divided the contract for the construction or renovation of a plant without furnishing adequate information about the complete scope of the project, including the final destination and proposed use of the plant



## Electronic Software Distribution Export Approval Form

Complete one form for each requested facility – duplicate as needed. Please return the completed form to the BUS-6 Customs Office, MS C308/fax 667-3195. To ship software, use a Shipping Manifest/Request. To hand-carry software that will be returned, use a Property Removal Form.

<b>Software/Computer Code</b>		
Name:	LA-CC number: _____ Contact FSS-16, 7-5011, for numbers	
Version:	Is data or specifications available on the Web? Where? http://_____ If not, please attach specifications	
Contains Encryption? ? (no) (yes) If yes, what is the key length (in bits)? If not, does it contain an area to plug in encryption?		
Requester: _____ Group: _____ Phone: _____ Date: _____ Cost Center: _____ Program Code: _____ Cost Account: _____ Work Package: _____		
Facility you wish to distribute to (include complete address, phone/fax number and contact name and e-mail address) and end-use (include a description of what the software will be used for):		
<input type="checkbox"/> Send copy to CIT/Licensing MS C334	<input type="checkbox"/> Send to Requester & CIT/Licensing	<input type="checkbox"/> Send to Requester Only
<b>BUS-6 Customs Team (665-2194) use only:</b>		
Export No.:	Facility is a concern under 15CFR744 (yes) (no)	Facility is unknown (yes) Send Requester 744Checklists
Denied Persons List Screen On DPL (yes) (no)	Customs Team Member:	Date:
Export Control Classification No:	Conditions:	
<input type="checkbox"/> Your Export is Approved to the <b>above facility only</b> License No.: License Exception:	Conditions:	
<input type="checkbox"/> <b>Your Export is Denied</b>	Reason:	

**EXHIBIT K****Los Alamos National Laboratory***FSS-16 Classification Office*

P.O. Box 1663, Mail Stop F674  
 Los Alamos, New Mexico 87545  
 (505) 667-5011 / FAX: (505) 665-4251

**SOFTWARE RELEASE FORM**

**INSTRUCTIONS:** One copy of form to be completed and submitted to FSS-16, Classification Group **BEFORE** release is made of Laboratory-developed computer software.

**APPROVALS:** Responsible party (person who takes responsibility for all organizational requirements having been met) signature required. Line management signature required for public release. Contact Civilian Industrial Technology Program Office (5-7380) for details. ADC signature required for organizations doing classified work.

Author(s), Group(s), Telephone Number(s) and Mail Stop(s):	<div style="border: 1px solid black; padding: 2px;">LA-CC</div>
Code Name and Version:	
Funding Source (Accounting Program Code):	
Description of Code (capabilities, methods, etc.). Include references to any relevant Los Alamos publications (descriptions, manuals, etc.). Give URL if information is posted on LANL web site.	
<b>Signatures:</b>	
Responsible Party (required):	Date:
Is this software to be placed in the public domain (given to any requestor)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Line Manager (required if yes): _____ Date: _____	
Authorized Derivative Classifier (required - see <b>APPROVALS</b> ): _____ Date: _____	
<input type="checkbox"/> Unclassified <input type="checkbox"/> Unclassified Limited Distribution <input type="checkbox"/> Classified	
<b>Classification Office:</b>	
Reviewer:	Date received and processed:
<input type="checkbox"/> Unclassified <input type="checkbox"/> Confidential <input type="checkbox"/> Secret <input type="checkbox"/> RD <input type="checkbox"/> FRD <input type="checkbox"/> NSI	
<input type="checkbox"/> UCNI <input type="checkbox"/> Other: _____	

## **APPENDIX**

This appendix contains information on :

- Licenses;
- Documentation Requirements;
- Nuclear-related Commodities, end-uses, End-users and Activities;
- Defense Articles and Services, and Missile and Chemical/Biological Weapons End-uses/users; and
- End-use/End-user Guidance and Red Flags.

### **Licenses**

#### **Commerce Department Export Licenses**

An export license is issued by the Bureau of Export Administration (BXA), Department of Commerce, for the export of commodities under its licensing jurisdiction. The Bureau of Export Administration and inter-Agency Reviewers (the Departments of Defense, Energy, State, and the Arms Control Disarmament Agency) use certain standards in order to be able to determine whether to grant or deny export license applications. The reviews include such factors as:

- Whether the commodities, software, or technology to be transferred are appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;
- The types of assurances or guarantees given;
- Whether the importing country is a party to the Nuclear Non-Proliferation Treaty and has all of its nuclear activities, facilities or installations under International Atomic Energy Agency safeguards; and
- The capabilities and objectives of the missile and space programs of the recipient country.

#### **License Exceptions**

License exceptions are established by the U.S. Department of Commerce permitting export within the provisions prescribed in the Export Administration Regulations. No written authorization is required for using a license exception, and no document is issued by Commerce as a precondition to use a license exception. Many Laboratory commodities can be exported under a license exception or are classified "NLR" (no license required).

Some 30 different license exceptions currently exist for exports. The Customs Office is responsible for authorizing the appropriate exception for all Laboratory exports of commodities not requiring a license.

## **Licenses cont'd.**

### **Nuclear Regulatory Commission Export Licenses**

The Nuclear Regulatory Commission (NRC) licenses certain exports of nuclear material and equipment. The Customs Office applies for licenses when no general license is applicable.

### **State Department Licenses**

Certain Laboratory exports of defense articles and services are under the jurisdiction of the Department of State, Office of Defense Trade Controls. In order to obtain a State Department license, an exporter of defense articles/services is required to register with the State Department as an exporter of arms. As a matter of policy, the Laboratory has not registered with the Department of State, and exports of this nature are transferred to the U.S. Government for export.

### **Denied Parties**

All facilities and end-users that the Laboratory exports to require checks against published lists to ensure they are not a denied party or a facility of concern. If a facility is unknown to the Customs Office, you may be asked to fill out a Nuclear Controls Checklist (see Exhibit H) or a checklist to identify if the facility is working with missiles or chemical or biological weapons (see Exhibit I). See also Know Your End-Use/End-User Guidance and Red Flags on page 42.

## Documentation Requirements

### Licensing Support Documentation

Most export license applications and specific re-export authorization requests must be supported by documents that provide information concerning the disposition abroad of the goods and/or technology intended for export or re-export. Upon request, the Customs Office, 665-2194, will inform you if special documents are required and will help you obtain those documents. Documents that may be required are:

### Statement by Ultimate Consignee and Purchaser

If required (call the Customs Office, 665-2194, for assistance), the foreign consignee must sign the statement and return it to the Customs Office for submission with the license application. The statement assures the BXA that the foreign consignee is fully aware of all responsibilities for representations made to BXA and for the disposition of the licensed commodities or technology only in those foreign countries where the BXA has specifically authorized disposition.

### Import or End-User Certificate

Import or End-User Certificates support license applications for items controlled for national security reasons or for items sent to the destinations listed below:

Argentina	Korea (Republic of)
Australia	Liechtenstein
Austria	Luxembourg
Belgium	Netherlands
Bulgaria	New Zealand
China (PRC)	Norway
Czech Republic	Pakistan
Denmark	Poland
Finland	Portugal
France	Romania
Germany	Singapore
Greece	Slovakia
Hong Kong	Spain
Hungary	Sweden
India	Switzerland
Ireland (Republic of)	Taiwan
Italy	Turkey (Republic of)
Japan	United Kingdom

The foreign consignee must get the International Import Certificate from the government of the country of import and then transmit it to the Customs Office.

### Delivery Verification

Delivery Verification (DV) Certificates may be required by BXA as a condition of a license. DVs are required on a very selective basis when items controlled for national security purposes are exported to certain countries.

## **Nuclear-related Commodities, End-uses, End-users and Activities**

### **Nuclear Proliferation Controls**

The Nuclear Non-Proliferation Act of 1978 requires the President to publish procedures regarding the control by the Department of Commerce over export of items under its jurisdiction that could be of significance for nuclear explosive purposes. The Nuclear Regulatory Commission administers regulations governing the export of nuclear material and equipment. The Department of Energy governs certain activities involving nuclear reactors and other nuclear fuel cycle facilities. The Commerce Department restricts exports to certain nuclear end-uses and end-users.

### **Department of Energy Authorization Required**

A specific authorization by the Secretary of Energy is required before:

### **Production Activities**

1. Engaging directly or indirectly in the production of special nuclear material (plutonium, uranium-233, or uranium enriched above 0.711 percent by weight in the isotope uranium-235) in any of the countries listed in 10 C.F.R. 810 (call the Customs Office 665-2194, for current information);

### **Technology**

2. Providing sensitive nuclear technology for an activity in any foreign country. Sensitive nuclear technology means any information which is not available to the public, that is important to the design construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

### **Activities Involving Reactors and Facilities**

3. Engaging in or providing assistance with any of the following activities for any foreign country:
  - a. designing production reactors or facilities for the separation of isotopes of source material (uranium or thorium, other than special nuclear materials or ores that contain by weight 0.05 percent or more of uranium or thorium, or any combination of these); or special nuclear material (enrichment); chemical processing of irradiated special nuclear material (reprocessing); fabrication of nuclear fuel, containing plutonium; or the production of heavy water;

## Nuclear-related Commodities, End-uses, End-users and Activities

### Reactors and Facilities cont'd

b. constructing, fabricating, operating, or maintaining such reactors or facilities,

c. designing, constructing, fabricating, operating or maintaining components specially designed, modified or adapted for use in such reactors or facilities,

d. designing, constructing, fabricating, operating or maintaining major critical components for use in such reactors or production-scale, or

e. training in the activities of paragraphs (3)(a) to (d) of this section.

### Nuclear Regulatory Commission Required Information

The Nuclear Regulatory Commission has export licensing authority for: special nuclear material, source material, byproduct material, deuterium, and nuclear grade graphite.

If a request to export nuclear material or equipment does not meet the provisions for an NRC general license, a license must be obtained. You must include the name of the end-user (if different than consignee); an end purpose code; and a material type code and weight on the Shipping Manifest. You must include information on the end purpose. The Customs Office will assist you with getting this information.

### Department of Commerce Restrictions

The Department of Commerce has restrictions on certain nuclear end-uses and end-users. The Laboratory must apply for a license if the item(s) to be exported, or the end-user is involved directly or indirectly in any of the following activities:

### Nuclear Explosive Activities

Nuclear explosive activities, including research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device, or components or subsystems of such a device.

### Unsafeguarded Nuclear Activities

Activities including research on, or development, design, manufacture, construction, operation, or maintenance of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept

## **Nuclear-related Commodities, End-uses, End-users and Activities**

### **Unsafeguarded Nuclear Activities cont'd.**

International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation when it contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met.

### **Safeguarded and Unsafeguarded Nuclear Activities**

Safeguarded and unsafeguarded nuclear fuel cycle activities, including research on or development, design, manufacture, construction, operation or maintenance of any of the following facilities, or components for such facilities:

- Facilities for the chemical processing of irradiated special nuclear or source material;
- Facilities for the production of heavy water;
- Facilities for the separation of isotopes of source and special nuclear material; or
- Facilities for the fabrication of nuclear reactor fuel containing plutonium.

If the facility is unknown to the BUS-6 Customs Office, requesters will be asked to fill out the Nuclear Controls Checklist (Exhibit H).



## **Defense Articles and Services, and Missile and Chemical/Biological Weapons End-uses and End-users**

### **Defense-related Items and Services**

Occasionally, the Laboratory has reason to export defense-related items or services as defined in the U.S. Munitions List (see below). As a matter of policy, the Laboratory turns those exports over to the U.S. Government. The following should be taken into consideration when requesting the export of defense articles or services.

### **Arms Export Control Act.**

The Arms Export Control Act (AECA) authorizes controls primarily on exports that are deemed to be inherently military in character. The AECA authorizes the control of exports of defense.

### **International Traffic in Arms Regulations**

The State Department exercises its export control authority over these defense articles and services under the International Traffic in Arms Regulations (ITAR) (22 C.F.R. S 120 et seq).

### **U.S. Munitions List**

The Office of Defense Trade Controls (DTC) formerly the Office of Munitions Control (OMC), Department of State, designates which articles and services are deemed to be "defense articles" and "defense services" by determining (1) whether an article or services is inherently military in character, or (2) whether the article or service was specially designed, modified or engineered for military applications. If an article or service is designated a defense article or defense service, it is placed on the U.S. Munitions List (22 C.F.R. 121.1).

### **Categories of Defense Related Items**

Some of the categories of articles designated as arms ammunition, and implements of war are:

- Firearms;
- Artillery and projectors;
- Ammunition;
- Launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines;
- Explosives, propellants, and incendiary agents and their constituents;
- Vessels of War and special naval equipment;
- Tanks and military vehicles;
- Aircraft, spacecraft, and associated equipment;
- Military training equipment;
- Protective personnel equipment;
- Military and space electronics;

## **Defense Articles and Services, and Missile and Chemical/Biological Weapons End-Uses and End-Users**

### **Categories of Defense Related Items cont'd**

- Fire control, range-finder, optical and guidance and control equipment;
- Auxiliary military equipment;
- Toxicological agents and equipment and radiological equipment;
- Nuclear weapons design and test equipment; and
- Submersible vessels, oceanographic and associated equipment.

### **Special Approvals**

Most exports of this type require special approvals through the Department of Energy, Department of State, and other agencies. Some of these exports are for special programs that have a pipeline in place for shipment. Please call the Customs Office, 665-2194, as soon as you think you may have need to export a defense article/service .

### **Federal Firearms Regulations**

The Department of Treasury, Bureau of Alcohol, Tobacco and Firearms (BATF) governs the importation of firearms and ammunition into the United States. Before making arrangements to import any such items, contact the Customs Office at 665-2194.

### **Department of Commerce Restrictions**

The Department of Commerce has restrictions on certain missile and chemical/biological weapon end-uses and end-users. The Laboratory must apply for a license if the item(s) to be exported, or the end-user is involved directly or indirectly in any of the following activities:

### **Missile and Chemical/Biological End-Uses and End-Users**

- The design, development, production or use of missiles.
- The design, development, production, stockpiling, or use of chemical or biological weapons.

If the facility is unknown to the BUS-6 Customs Office, requesters will be asked to fill out the Missile Technology Checklist/Chemical & Biological Weapons Screen (Exhibit I).

## Know Your End-Use/End-User Guidance and Red Flags

### End-Use/End-User Focus

Various requirements of the Export Administration Regulations (EAR) are dependent upon a person's knowledge of the end-use, end-user, ultimate destination, or other facts relating to a transaction or activity. These provisions include the non-proliferation related "catch-all" sections and the prohibition against proceeding with a transaction knowing that a violation of the EAR has occurred or is about to occur.

### License Requirements

The EAR currently require export licenses when the exporter knows or has reason to know that the items will be used in the design, development, production, or the use of missiles, or in the design, development, production, stockpiling, or use of chemical or biological weapons. A license also is required when an exporter knows or has reason to know that an item will be used directly or indirectly in a nuclear weapons related activity, or when an exporter is informed that the export involves an unacceptable risk of diversion to any of the aforementioned activities anywhere in the world.

### Exporter Responsibility

The EAR require the exporter to know their customer. Even uncontrolled items may require specific Commerce Department approval in the form of a license when a particular transaction raises proliferation concerns. Exporters who ship items that would otherwise be eligible for a license exception may be held liable under the EAR and could lose their export privileges and be fined or criminally prosecuted if they make the wrong decisions.

The following screening elements should be used to meet the EAR end-use/end-user requirements:

### High Risk of Diversion (Red Flags)

- Is the end-user reluctant to offer information about the end-use of an item?
- Does the product's capabilities fit the end-user's line of business? (For example, a small bakery places an order for several sophisticated lasers).
- Is the item incompatible with the technical level of the country to which the product is being shipped? (For example, semiconductor manufacturing equipment would be of little use in a country without an electronics industry.)

## Know Your End-Use/End-User Guidance and Red Flags

### Red Flags cont'd

- Does the end-user have little or no business background?
- Is the end-user willing to pay cash for a very expensive item when the terms of sale call for financing?
- Is the end-user unfamiliar with the item's performance characteristics but still wants the item?
- Are routine installation, training or maintenance services declined by the end-user?
- Are delivery dates vague, or are deliveries planned for out-of-the-way destinations?
- Is a freight forwarding firm listed as the item's final destination?
- Is the shipping route abnormal for the item and destination?
- Is the packaging inconsistent with the stated method of shipment or destination?
- Is the end-user evasive or unclear about whether the purchased product is for his/her sole use, export or reexport?

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